

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

WILLIAM MURRAY, et al.,

Plaintiffs,

V.

MICHAEL REGAN, in his official capacity as Administrator of the U.S. Environmental Protection Agency, et al.,

Defendants.

Case No. 1:19-cv-01498-LEK/TWD

JOINT STATUS REPORT

In accordance with this Court’s Order, Dkt. No. 42 (Feb. 2, 2021), Defendants (the “Agencies”)¹ and Plaintiffs William Murray and June Omura submit this status report.

1. In this case, Plaintiffs challenge two rules promulgated by the Agencies that define the phrase “waters of the United States” in Section 1362(7) of the Clean Water Act, 33 U.S.C. § 1362(7): the Navigable Waters Protection Rule: Definition of “Waters of the United States,” 85 Fed. Reg. 22,250 (Apr. 21, 2020) (“2020 Rule”), and the Definition of “Waters of the United States”- Recodification of Pre-Existing Rules, 84 Fed. Reg. 56,626 (Oct. 22, 2019) (“2019 Rule”).

2. This case is held in abeyance until August 2, 2021. Dkt. No. 42. In addition to this status report, the Parties will submit a joint status report on or before July 30. *Id.*

3. On March 10, the new EPA Administrator, Michael Regan, was sworn in. 167
Cong. Rec. S1456 (daily ed. Mar. 10, 2021). The new Administrator and his staff have since

¹ EPA Administrator Michael Regan and Acting Assistant Secretary of the Army for Civil Works Jamie Pinkham are automatically substituted for their predecessors in office pursuant to Rule 25(d) of the Federal Rules of Civil Procedure.

been briefed on the 2020 Rule, and the new administration is currently weighing its options regarding the 2020 Rule.

4. Recently, Administrator Regan pledged to “begin a stakeholder engagement process involving our [agriculture] community, Farm Bureau or [agriculture] CEOs, our environmental community, to look at the lessons learned and how we can move forward.”

Hearing on Fiscal 2022 Budget Requests for EPA Before the H. Appropriations Subcomm. on Interior & Env’t, 117th Cong. 4 (Apr. 21, 2021) (statement of Michael Regan, EPA

Administrator). While the Agencies have not yet decided whether to retain, modify, or replace the 2020 Rule, Administrator Regan has expressed his intent to “chart a path forward on waters of the U.S. that will be inclusive and forward-looking.” *Id.* at 5.

5. When the Agencies decide whether to retain, modify, or replace the 2020 Rule, the Agencies will file a status report of the decision, and advise the Court as to how that decision should affect this matter going forward.

Respectfully submitted,

Dated: May 3, 2021

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CERTIFICATE OF SERVICE

I hereby certify that, on May 3, 2021, I electronically transmitted the foregoing to the Clerk of Court using the ECF system for filing and transmittal of a Notice of Electronic Filing to registered counsel of record.

/s/ Phillip R. Dupré
Phillip R. Dupré